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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,908	01/07/2004	John Lupoi	60092-0011	5652
29989 7590 04/10/2008 HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110				
EXAMINER				
SALCT, JASON P				
ART UNIT		PAPER NUMBER		
2623				
MAIL DATE		DELIVERY MODE		
04/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/753,908

**Applicant(s)**

LUPOI ET AL.

**Examiner**

Jason P. Salce

**Art Unit**

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 32, 63 and 94-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 32, 63 and 94-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 32, 63 and 94-113 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claim 113 is objected to because of the following informalities: On Page 15, Applicant states that the "notification indicates", which is inconsistent with the previously recited claim limitations ("**notification**" and "**second message**") of claim 113. Claim 1 states that the athlete receives a notification of the identify of the recruiting entity, and in claim 113, the notification of claim 1 has been recited as the "second message", therefore claim 113 on Page 15 should read, "wherein the second message indicates". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 95 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim limitation of not indicating any identity of a recruiting entity is not supported by the specification of the instant application. Paragraph 0161 describes only indicating the identity of a recruiting entity in additional to other data (city, state, etc.).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 32, 63 and 94-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erdelyi (U.S. Patent No. 6,631,522) in view of the beRecruited.com website (dated 12/17/2003).

Referring to claim 1, Erdelyi discloses a method for providing video (**see Column 2, Lines 5-9 for providing video**) to a recruiting entity (**see Column 24, Lines 26-28 for the system being used by various types of recruiting entities such as a coach or scout**).

Erdelyi also discloses receiving, from the recruiting entity, one or more search criteria (**see Column 7, Lines 1-11**).

Erdelyi also discloses that in response to receiving the one or more search criteria, determining one or more athletes that satisfy the one or more search criteria **(see Column 7, Lines 16-24)**.

Erdelyi also discloses sending, to the recruiting entity, identities of the one or more athletes **(see scrollable list of players 142 in Figure 4b and Column 7, Lines 16-24)**.

Erdelyi also discloses receiving, from the recruiting entity, a request to view a profile of a particular athlete **(see Column 7, Lines 33-38)**.

Erdelyi also discloses that in response to receiving the request to view the profile of the particular athlete, sending, to the recruiting entity, information about the particular athlete, wherein the information includes an identity of at least one motion video that is associated with the particular athlete **(see Column 7, Lines 56-65)**.

Erdelyi also discloses receiving, from the recruiting entity, a request to view a particular motion video **(see Column 8, Lines 18-29)**.

Erdelyi also discloses that in response to receiving the request to view the particular motion video, sending, over a communication link, to the recruiting entity, data that represents the particular motion video **(see again Column 8, Lines 56-65 for viewing the selected motion video and further note for the invention being implemented over a network at Column 5, Lines 8-19)**.

Erdelyi fails to disclose notifying an athlete when a recruiting entity has viewed an athlete's personal profile (which includes the athlete's videos).

The beRecruited.com website teaches that in response to receiving a request to view a particular motion video, sending, to the particular athlete, over a communication network, a notification that the recruiting entity requested information about the particular athlete (**see the “Connect with Coaches” section and Item 10 under the “Athletes and Parents” section**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the athlete data retrieval system, using the athlete notification system, as taught by the beRecruited.com website, for the purpose of improving an athletes chances of being recruited and earning an athletic scholarship (**see the “High School Athletes” section**).

Referring to claim 113, the beRecruited.com website also discloses receiving, from the particular athlete, initial information about the particular athlete and in response to receiving the initial information, storing the initial information in association with the particular athlete and after receiving the initial information, receiving, from the particular athlete, subsequent information about the particular athlete and in response to receiving the subsequent information, storing the subsequent information in association with the particular athlete (**see the “Connect with Coaches” section on Page 2 of 2 for allowing a user to adding initial (*detailed personal information*) and subsequent (*action movies*) to the athlete’s profile**).

The beRecruited.com website also discloses receiving a search request from the recruiting entity and in response to receiving the search request, performing the steps of

(a) reading, from a database, a particular set of requirements that are associated with the recruiting entity, (b) selecting, from among a set of athletes, a subset of athletes that satisfy the particular set of requirements, and (c) sending, to the recruiting entity, over a communication network, a first message that identifies athletes in the subset of athletes **(see the “How to I search for athletes?” section on Page 6 of 7 for search for athletes that meet the recruiting entity's search criteria).**

The beRecruited.com website further discloses receiving, from the recruiting entity, a request to associate the particular athlete with the recruiting entity and in response to receiving the request to associate, storing an association between the particular athlete and the recruiting entity and in response to receiving the request to associate, sending, over a communication link, to the particular athlete, a second message that indicates that the particular athlete has been associated with the recruiting entity and receiving, from the recruiting entity, a request to receive identities of athletes that currently are associated with the recruiting entity and in response to the request to receive the identities of the athletes that are associated with the recruiting entity, sending, over a communication link, to the recruiting entity, a notification that indicates the identities of athletes that currently are associated with the recruiting entity **(see the “How to I search for athletes?” section on Page 6 of 7 for bookmarking an athlete's profile and accessing the bookmark later using the recruiting entity's personal homepage).**

The beRecruited.com website further teaches that the notification indicates the identity of the recruiting entity and how many requests to receive the particular athlete's

information have been received from the recruiting entity (**see the “Connect with Coaches” section for allowing an athlete to see which coaches have bookmarked him/her and how many times (at least one time by showing the coaches identity to the athlete)).**

The beRecruited.com website also discloses that the initial information includes athletic performance video data, academic information and biographical information about the particular athlete (**see the “Connect with Coaches” section**).

Erdelyi discloses receiving, from the recruiting entity, over a communication network, both a first set of requirements for a first position on a team and a second set of requirements for a second position on a team and based on the first set of requirements, updating a first set of values that are associated with both the recruiting entity and a team's first position and based on the second set of requirements, updating a second set of values that are associated with both the recruiting entity and a team's second position (**see Figure 5 and Column 8, Lines 36-41 and Column 10, Line 55 through Column 11, Line 55**).

Erdelyi also discloses that the first and second positions are different positions (**see Figure 5 for entering two different positions**).

Erdelyi also discloses that the initial information includes athlete statistical information (**see Column 6, Lines 38-48**).

Erdelyi and the beRecruited.com website fail to disclose storing a timestamp that indicates when the subsequent information was stored and in response to receiving the



request to view the profile of the particular athlete, sending, to the recruiting entity, an indication of when the subsequent information was stored.

The examiner takes Official Notice to the fact that databases stored time stamps indicating the last time a data field in a database has been updated and using the time stamp data to inform a user the last time an update was made.

At the time the invention was made it would have been obvious to a person of ordinary skill in the art, to modify the athlete/recruiter information system, as taught by Erdelyi and the beRecruited.com website, using the time stamping features, as taught by the examiner's Official Notice, for the purpose of allowing a coach or recruiter to be notified of the last time an athlete accessed/updated his/her profile.

Referring to claims 32 and 63, see the rejection of claim 1.

Referring to claim 94, see the rejection of claim 113.

Referring to claim 95, Erdelyi and the beRecruited.com website teach all of the limitations of claim 1, but fail to teach that the notification does not indicate any identity of the recruiting entity.

The examiner takes Official Notice to the face that it is well known to exclude the identity of the recruiting identity from a notification transmitted to an athlete when the athlete's profile has been accessed.

At the time the invention was made it would have been obvious to a person of ordinary skill in the art, to modify the athlete/recruiter information system, as taught by

Erdelyi and the beRecruited.com website, using the exclusion of the recruiter's identity, as taught by the examiner's Official Notice, for the purpose of allowing a recruiting identity to be in compliance with NCAA rules and regulations regarding how often a coach or recruiter affiliated with a specific university can contact an athlete.

Referring to claims 96-100, see the rejection of claim 113.

Referring to claim 101, see the rejection of claim 100 and further note the "Additional Features" and Item 7 under the Athletes and Parents section.

Referring to claim 102, see the rejection of claim 113.

Referring to claim 103, see the rejection of claim 113 and further note that Erdelyi discloses replacing at least a portion of the initial information with at least a portion of the subsequent information (**see Figures 4a-4f, Figure 5 and Column 6, Line 38 through Column 11, Line 55 for receiving multiple types of requested information and replacing previously requested information of the same type**).

Referring to claims 104-112, see the rejection of claim 113.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/  
Primary Examiner, Art Unit 2623

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April 8, 2008